



IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition No.25194/1996

Sri Cheekanda Ganapathy
S/o Late Somaiah,
Aged 35 years,
R/at Moovathoklu village,
Somavarpet Taluk,
Kodagu District. .. Petitioner

(By Sri P.K.Ponnappa,
Advocate)

Vs.

1. The Government of Karnataka
Department of Revenue,
by its Secretary,
Vidhana Soudha,
Bangalore-560 001.
2. The Deputy Commissioner of
Kodagu, Kodagu District,
Madikeri.
3. The Tahsildar,
Somvarpet Taluk,
Somvarpet,
Kodagu District. .. Respondents

(By Sri B.E.Kotian,
Government Advocate)

Writ Petition filed under Articles 226 and 227 of the Constitution of India with an affidavit praying for the quashing of the order dated 25-9-1995 passed by the third respondent vide Annexure-A, etc.

This petition coming on for hearing before Court this day, the Court made the following:

9/19

O R D E R

The petitioner, in this petition, has called in question the correctness of the order dated 25th of September 1995, a copy of which has been produced as Annexure-A, passed by the third respondent rejecting the petitioner's prayer for transfer of Khata in respect of the land measuring 2 acres 34 cents in Survey No.40 and 11 acres 12 cents in Survey No.39, both situated in Kula No.9 of Moovathoklu village, Madapura Grama Panchayat.

2. It is the case of the petitioner that by means of the registered sale deed dated 25th of July 1995, he purchased the said lands and consequent upon the purchase of the said lands, the Khata of the said lands was required to be changed in his name.

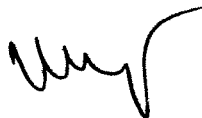
3. Sri Ponnappa, learned Counsel appearing for the petitioner, submitted that the impugned order Annexure-A has been passed in total disregard of the decision of the Full

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Kariyappa Poovaiah Vs. State of Karnataka (ILR 1993 KAR 2959). He further pointed out that the impugned order is not a speaking order and the same came to be passed without hearing the petitioner and without giving him an opportunity.

4. I am of the view that the impugned order is liable to be quashed on the short ground that it is not a speaking order and there is no application of mind by the respondents with regard to the claim made by the petitioner for transfer of Khata in respect of the land in question in favour of the petitioner. By the order impugned, the request of the petitioner for change of Khata has been rejected only on the ground that the land in question is a Jamma land. Further, while passing order impugned, the third respondent does not appear to have applied his mind with regard to the principle enunciated by this Court in the case of Cheekere Kariyappa Poovaiah (supra).



5. For the reasons aforesaid, the impugned order Annexure-A dated 25th of September 1995 passed by the third respondent is liable to be quashed and accordingly it is quashed.

6. The third respondent is directed to reconsider the petitioner's prayer for change of Khata in respect of the lands in question, in the light of the decision of this Court in the case of Cheekere Kariyappa Poovaiah (supra) as expeditiously as possible and at any event of the matter, not later than four months from the date of receipt of a copy of this order. However, the direction given by this Court in this order should not be understood by the third respondent as this Court expressing its view one way or the other in respect of the claim made by the petitioner. The third respondent shall take appropriate decision in the matter after hearing the petitioner and giving him an opportunity and also in the light of the principle laid down by this Court in the case of Cheekere Kariyappa Poovaiah (supra).

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7. Accordingly, this petition is allowed and disposed of in terms stated above.

8. Sri B.E.Kotian, learned Government Advocate, is permitted to file his memo of appearance within four weeks from today.

Sd/-
JUDGE

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ANB.

